



Maloney, Wright & Robbins

Accountants and Advisors

As tax preparers, we get flooded every year with questions and inquiries about the tax consequences of costs incurred as a result of temporary job assignments away from home.

The most important question for tax purposes relates to the length of the assignment. If you are away from home for more than one year, the assignment is classified as "indefinite" (as opposed to "temporary"), and you won't be able to deduct any of your personal living expenses. On the other hand, if you are actually away for one year or less and *it was realistic to expect* that you would be away for one year or less, then your assignment can qualify as "temporary" (unless particular facts and circumstances indicate otherwise).

If your assignment qualifies as temporary you can deduct the personal living costs you incur while away from home. Significantly, this includes the costs of travel, lodging and meals as long as they are not lavish or extravagant (although meals are subject to the regular rules for deductible meals which generally only allow half of their cost to be deductible). Other incidental living expenses, such as for laundry or cleaning, are also deductible. You can deduct the costs of trips "home," e.g., on weekends, but only up to the amount you would have spent on meals and lodging at your temporary work location had you not gone home.

These employee business expenses are miscellaneous itemized deductions that are subject to the 2% floor rule. That means that your employee expenses, when added to your other miscellaneous itemized deductions, are deductible only to the extent that they exceed 2% of your adjusted gross income. Other miscellaneous itemized deductions include tax preparation fees and investment expenses.

If, however, your employer reimburses the expenses under a plan that meets certain requirements, a so-called "accountable" plan, you can avoid the 2% floor. Instead, you don't include the reimbursements in income and you don't deduct the expenses. Expenses in excess of reimbursements, or expenses that are reimbursed from a "non-accountable plan", are subject to the 2% floor.

These rules allow for substantial deductions in many cases, and you must be careful to meet the substantiation requirements. That is, save all receipts and documentation regarding your deductible expenses. Keep a logbook to show the costs incurred while away from home on your temporary job assignment.

Additionally, in the event IRS seeks to make the case that your assignment was "indefinite," it's advisable to establish a record showing it was reasonable to expect the assignment would last one year or less. For example, save any memos or documentation from your employer regarding the nature of your assignment. An explicit statement in writing from your employer to the effect that the assignment isn't expected to exceed one year could prove helpful.

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More specifically, if you work in the oilfield industry, whether it be as a roughneck, consultant, mud engineer, trucker, etc, there are always valid, legal deductions you can take against your wages earned. The IRS, for many years, has allowed Form 2106, Employee Business Expense as a means for common wage-earners to deduct industry-specific required supplies, cell phones, per diem, etc.

For those of you who work close to home the deduction may be only for work boots, safety equipment and "rig" clothing. You may or may not be able to take a deduction for items if you do not qualify to itemize your deductions on your return. For those of you who work away from home, you need to keep track of your mileage to the job site and back. Additionally, the cost for lodging for overnight stays could be deductible. If you stay in a bunk house or motel room furnished by the company, you do not get to count the mileage from the bunk house to the rig and back on a daily basis, this is considered commuting, nor will you be allowed a deduction for lodging. If you car pool with a crew, only the person who owns the vehicle gets the mileage. Likewise, no mileage deduction is allowed for travel if your employer provided vehicles.

If you are away from home overnight, you can substantiate your cost for meals, by using a daily rate or per diem established by IRS as opposed to actual costs. If you spend more than twelve hours a day away from home, then you will get a meal allowance of one half the day rate for meals of which you get to deduct 50% or 80% on the Employee Business Expense Form (2106). The daily per diem rate and the percentage that is deductible varies depending on your location and your job description, but it ranges from \$46.00 to \$71.00 for a full day.

The Standard Mileage Rate is \$0.51 per mile for the first half of 2011 (January 1st thru June 30th) and \$0.555 for the second half of the year (July 1st thru December 31st). This standard mileage rate can be used to substantiate the costs incurred for the use of your personal automobile as opposed to actual costs. With fuel prices up, you may want to keep your actual expenses to see which deduction is best. Actual expenses are fuel, maintenance, insurance, interest, depreciation, and any other tangible expenses attached to your vehicle.

Depending on your job description, you may be allowed a portion of your cellular telephone bill.

Also, for those of you who work in "oil-base" mud and take your clothes to the laundry rather than destroy a washer/ dryer at home, keep track of what you spend. That is a deductible expense on the Form 2106, Employee Business Expense.

If you are reimbursed for any expense, you may only deduct what is above that reimbursed amount.

Only those qualifying to file itemized deductions (Schedule A) are allowed to deduct their employee business expenses over and above what they are reimbursed.

These above mentioned deductions are subject to change as the tax law changes and there is no guarantee that these deductions will be in effect for tax years into the future. Tax law changes can be made retroactive and can nullify any currently allowed deductions. Also, this list is for informational purposes only and does not guarantee an individual's deductions on their personal return or take into consideration personal circumstances.

If you have any questions, or if you would like to speak to one of our accountants about correctly preparing your personal income tax return, please give my office a call.

Sincerely,

MALONEY, WRIGHT & ROBBINS

Arthur H. Robbins, Jr.
Certified Public Accountant